

REMARKS

Claims 2 and 11-13 have been cancelled. Claims 1, 4-7 and 10 have been amended. Claims 1 and 3-10 are pending in the present application. No new matter has been added.

Claims 1-3 and 10-13 are rejected under 35 U.S.C. § 102(b) as being anticipated by U.S. Patent No. 5,964,820 (“Miwa et al.”). Applicants respectfully submit that the rejection should be withdrawn for at least the following reasons.

To anticipate a claim under §102(b), each and every element as set forth in the claim must be found in a single prior art reference. Verdegaal Bros. v. Union Oil Co. of Calif., 814 F.2d 628, 631, 2 U.S.P.Q.2d 1051, 1053 (Fed. Cir. 1987). Furthermore, “[t]he identical invention must be shown in as complete detail as is contained in the . . . claim.” Richardson v. Suzuki Motor Co., 868 F.2d 1226, 1236, 9 U.S.P.Q.2d 1913, 1920 (Fed. Cir. 1989). That is, the prior art must describe the elements arranged as required by the claims. In re Bond, 910 F.2d 831, 15 U.S.P.Q.2d 1566 (Fed. Cir. 1990). It is respectfully submitted that Miwa et al. does not teach each and every limitation of amended claim 1 for at least the following reasons.

Miwa et al. reference describes a diagnosis method for an exhaust gas recirculating system of a diesel engine. An intake pressure and an exhaust gas pressure of the engine are calculated as a function of the fresh air mass flow into the diesel engine. The fresh air mass flow is determined by a sensor. An error in the system is diagnosed based on a function of a pressure difference between the intake pressure and the exhaust pressure. An error is detected if the pressure difference exceeds a predetermined value.

Amended claim 1 recites, in relevant part, “wherein the ventilation system **includes one of (i) a tank ventilation system and (ii) a crankcase ventilation system** conducted to the intake manifold of the internal combustion engine.” Amended claim 10 recites substantially similar limitations. Miwa et al. reference fails to disclose a tank ventilation system or a crank case ventilation system. In Miwa et al. reference, exhaust **gas from the exhaust gas branch** is recirculated into the intake duct of the internal combustion engine. In the tank ventilation system, **gases from the fuel tank** of the internal combustion engine are ventilated into the intake manifold of the internal combustion engine via a ventilation duct. But the **fuel tank is not equivalent to the exhaust gas branch**.

In addition, Miwa et al. reference describes diagnosing the exhaust gas recirculating system based on the pressure in the intake duct and the exhaust gas duct, which pressure is a function of the fresh air mass flow. Thus, the pressure in the intake duct and the exhaust gas duct is determined from the fresh air mass flow. However, there is **no** such dependency of the pressure in the ventilation duct of the tank ventilation or the crankcase ventilation on the fresh air mass flow.

For at least the foregoing reasons, claims 1 and 10 are allowable over Miwa et al. Claim 3 depends from claim 1 and is therefore allowable for similar reasons as claim 1. Claims 2 and 11-13 have been cancelled, mooted the rejection with regards to these claims.

Claims 8 and 9 are rejected under 35 U.S.C. § 103(a) as unpatentable over Miwa et al. in view of U.S. Patent No. 6,029,451 issued to "Gartner." Claims 8 and 9 depend from claim 1. The "Gartner" is not asserted to overcome, and does not overcome, the deficiencies of the "Miwa et al." reference as applied against claim 1, so the combination of Miwa and Gartner would not provide the claimed subject matter. Therefore, claims 8 and 9 are allowable over the combination of Miwa and Gartner.

Applicants thank the Examiner for indicating that claims 4-7 recite allowable subject matter. Claims 4-7 have been rewritten in independent form including all of the limitations of the base claim and any intervening claims. Withdrawal of this objection is respectfully requested.


CONCLUSION

It is respectfully submitted that all pending claims 1 and 3-10 of the present application are in allowable condition. Prompt reconsideration and allowance of the application are respectfully requested.

Please charge the **\$600 fee** (for **3 extra independent claims** in excess of three) to Kenyon & Kenyon's Deposit Account No. **11-0600**.

Respectfully Submitted,

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